

prominently placed thereon with such conspicuousness (as compared with other words and statements on the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 6-8-62. Consent—delivered to a charitable institution.

28104. Frozen cherry turnovers and frozen apple turnovers. (F.D.C. No. 46161. S. Nos. 80-349/50 R.)

QUANTITY: 9 cases, 12 pkgs. each of cherry turnovers, and 8 cases, 12 pkgs. each of apple turnovers, at Oklahoma City, Okla.

SHIPPED: 6-16-61, from Dallas, Tex., by Frozen-Rite Products, Inc.

LABEL IN PART: (Pkg.) "FROZEN-RITE 4 APPLE [or "CHERRY"] TURNOVERS * * * Net Wt. 12 ozs. Frozen-Rite Products Inc., Dallas, Texas."

RESULTS OF INVESTIGATION: The mandatory label information appeared near the edge of the package cover in small type on a noncontrasting background and was almost entirely covered by the folded over metal portion of the cover.

LIBELED: 8-3-61, W. Dist. Okla.

CHARGE: 403(f)—when shipped, the information required by 403(e) and (i) (2) to appear on the label, namely, the firm name and address, quantity of contents statement and declaration of ingredients, was not prominently placed on the article with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: Frozen-Rite Products, Inc., claimant, filed a motion to dismiss on the ground that Section 403(f) was unconstitutional because of vagueness and indefiniteness. On 2-15-62, after considering the briefs and arguments of counsel, the court found that such section was not unconstitutional, overruled the motion, and entered a decree providing for condemnation of the article and its delivery to a charitable institution.

28105. Cara-Ry wafers. (F.D.C. No. 47548. S. No. 61-801 T.)

QUANTITY: 198 cases, 12 pkgs. each, at Cambridge, Mass.

SHIPPED: 3-24-62, from Duluth, Minn., by Zinsmaster Hol-Ry Co., Inc.

LABEL IN PART: (Pkg.) "Master Cara-Ry Wafer A Crisp Rye Wafer * * * Net Wt. 7 Ozs. * * * Zinsmaster Hol-Ry Company, Minneapolis, St. Paul, Duluth, Minn."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-16-62, Dist. Mass.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-28-62. Default—delivered to a public or charitable institution.

28106. Hol-Ry wafers. (F.D.C. No. 47571. S. Nos. 8-857 T, 61-802 T, 61-805 T.)

QUANTITY: 72 cases, 12 pkgs. each, at Cambridge, Mass.

SHIPPED: 3-22-62, from Duluth, Minn., by Zinsmaster Hol-Ry Co.

LABEL IN PART: (Case) "Master Hol-Ry Wafers 12-7 Oz."; (pkg.) "Master Hol-Ry A Crisp Rye Wafer * * * Net Wt. 7 Oz, * * * Zinsmaster Hol-Ry Company Minneapolis St. Paul Duluth Minn."